IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :16385 of 2006

Dated: 25th August 2006.

Between:

M/s Veeramani Biscuit Industries Ltd.,

..... PETITIONER

AND

The Assistant Commissioner of Commercial Taxes,
Large Tax Payers Unit, Charminar Division, Hyderabad
and others

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NO.16385 OF 2006

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> "For the reasons stated in the accompanying affidavit, the Petitioner prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the action on the part of the
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> 1st Respondent in issuing the impugned garnishee notice in VAT Form-2006, dated 31-07-2006 directing the 3rd Respondent to pay the outstanding amount mentioned therein within 7 days during the pendency of the appeals in C.No.66/2005-06 and C/82/2005-06 heard finally and reserved for orders on 19-05-2006 as illegal, arbitrary, improper, unfair, without authority of law and violative of principles of natural justice and contrary to the established cannore of law and direct the
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> 1st Respondent not to take coercive steps for recovery of the tax in dispute pending pronouncement of the orders in Appeal No.C/66/2005-06 with regard to tax and C/66/2005-06 with regard to penal interest and

C/82/2005-06 with regard to penalty and grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case."

The petitioner is a limited company carrying on business in the manufacture of Confectionery and Biscuits, etc. The State of Andhra Pradesh by its proceedings dated
20-08-1998, granted exemption of the liability to pay the sales tax insofar as new industries are concerned, subject to certain limitations, and insofar as the petitioner is concerned, the products of the petitioner are required to meet the standards of the ISI. The petitioner claimed the exemption that his products meet the ISI standards. For the assessment year 1998-99, the petitioner's liability under the A.P.G.S.T. Act, was determined by the
1st respondent, accepting the claim of exemption of the petitioner insofar as the abovementioned products are concerned. However, by a subsequent order dated
20-07-2005, the 1st respondent revised the said assessment by disallowing the tax benefit given to the biscuits and confectionery on the ground that they did not conform to the requisite standards of the ISI. Aggrieved by the said revision, the petitioner carried the matter in appeal, but paid the tax. During the pendency of the appeal, further proceedings levying penalty for wrongly

claiming the exemption, were initiated against the petitioner on
07-02-2006. Aggrieved by the same, the petitioner carried the matter in another appeal. By proceedings dated
23-02-2006, the respondent also levied interest under Section 16(3) of the A.P.G.S.T. Act. (the details of which may not be necessary for the present purpose). Against the levy of such interest, the petitioner carried another appeal. All the abovementioned three appeals are pending before the Appellate Deputy Commissioner of Commercial Taxes, Punjagutta Division, Hyderabad. It is asserted by the petitioner in his affidavit that the appeals, in fact, were heard on 19-05-2006 and orders were reserved, though the same is disputed by the learned Government Pleader.

While the matter stood thus, the 1st respondent issued Garnishee notice to the 3rd respondent, who is the major distributor of the petitioner company and owes some amount to the petitioner towards the price of the products supplied by the petitioner. Hence, the present writ petition.

Heard the learned Government Pleader for Taxes.

In view of the fact that the entire amount of tax is already paid, we deem it appropriate to direct the respondents not to take any coercive steps for recovery of the penalty and interest, which are subject matter of the

appeal before the 2nd respondent, on condition of the petitioner furnishing immovable property security in terms of Rule 28(8) of the Rules made in A.P.G.S.T. Act., during the pendency of the appeal.

In the result, the writ petition is disposed with the above direction.

J.Chelameswar, J

D.Appa Rao, J

25th August 2006
mrk